

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

UNITED STATES OF AMERICA)
)
)
v) CR. NO. 7MJ-39-TFM
)
)
NORMAN EVANS MCELROY, JR)

ORDER

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing was held on April 17, 2007, pursuant to the Government's Motion for Detention (Doc.#3). Based upon consideration of the evidence presented, the Court concludes that the defendant should be detained pending trial in this case.

Part I -- Findings of Fact

There is probable cause to believe that the defendant has committed an offense involving a minor victim for which the maximum term of imprisonment of ten years or more is prescribed in 18 U.S.C. § 2252A. The Defendant is charged with knowingly and intentionally possessing and distributing child pornography in interstate and foreign commerce. The defendant has not rebutted the presumption established by this finding that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community. There is a serious risk that the defendant will not appear and pose a serious danger to the community if released pending trial.

Part II - Written Statement of Reasons for Detention

I find that the credible testimony and information submitted at the hearing establishes by clear and convincing evidence that the defendant had child pornography images stored in a computer

within his residence in Wetumpka, Alabama on March 30, 2007. During an interview with an FBI Agent, the defendant admitted March 29, 2007 was when he last viewed the child pornography images stored on the computer. Further the defendant admitted he used a computer file sharing service to trade child pornography images with others. The defendant is also wanted by Washington authorities on two outstanding felony warrants for Failure to Appear.

Defendant Jones has no family ties to the Middle District of Alabama though he does have a girlfriend who resides within the Middle District of Alabama. Despite minimal ties to the Middle District of Alabama, based on clear and convincing evidence, this Court determines Defendant McElroy is a flight risk and danger to the community based on, *inter alia*, the two felony level and outstanding failure to appear warrants; the significant quantity of child pornography found on his computer; and the testimony that the defendant likely molested two minor females prior to his apprehension on the instant charges. Accordingly, the Court does not find less restrictive measures will enhance the likelihood the defendant will appear at trial or refrain from posing a danger to the community while on pretrial release.

Based on the foregoing considerations, the court concludes that there are no conditions or combination of conditions which will reasonably assure the appearance of the defendant or protect the community and that the defendant should be detained and bound over to the Grand Jury for the Middle District of Alabama .

Part III - Directions Regarding Detention

Therefore, it is ORDERED that the defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the

extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Done this the 18th day of April, 2007.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE